

30182. Canned spinach. (F.D.C. No. 50771. S. No. 35-985 A.)

QUANTITY: 120 cases of 6 6-lb. 6-oz. cans each, at Nashville, Tenn.

SHIPPED: 4-1-64, from Cullman, Ala.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing progressive decomposition.

LIBELED: 12-8-64, M. Dist. Tenn.

CHARGE: 402(a)(3)—contained a decomposed substance while held for sale.

DISPOSITION: 2-8-65. Default—destruction.

30183. Wild lettuce leaves. (F.D.C. No. 51290. S. No. 38-869 B.)

QUANTITY: 2 200-lb. bales, at New York, N.Y., in possession of Fidelity Warehouse Co., Inc.

SHIPPED: 11-6-62, from Bristol, Tenn.

LIBELED: 5-21-65, S. Dist. N.Y.

CHARGE: 402(a)(3)—contained insects; and 402(a)(4)—held under insanitary conditions.

DISPOSITION: 6-24-65. Default—destruction.

NUTS AND NUT PRODUCTS

30184. Unshelled filberts and rice. (F.D.C. No. 49546. S. Nos. 21-866/7 V.)

INFORMATION FILED: 7-21-64, Dist. Colo., against Tri-County Organic Co-op, a corporation, Denver, Colo., and James H. Fowler, secretary and manager.

ALLEGED VIOLATION: Between 1-5-62 and 1-18-63, while quantities of filberts and rice were being held for sale after shipment in interstate commerce, the defendants caused the articles to be held in a building that was accessible to and infested with rodents, and to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402(a)(3)—contained rodent urine and rodent pellets; and 402(a)(4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: On 8-24-64, the defendants, having initially pleaded not guilty, filed a motion to dismiss the information on the following grounds: that the facts stated were insufficient; that the violations alleged were of infamous nature and should be brought by indictment; that the statutes charged, violated the 5th Amendment to the United States Constitution due to vagueness and indefiniteness, violated the 6th Amendment for failure to inform concerning the nature and cause of the prosecution, violated the 1st Amendment in that the statutes abridged freedom of speech and expression, and violated the 10th Amendment in that the statutes were an unlawful invasion by the Federal Government into the powers reserved to the states or to the people; and that the penalties of the statute constituted cruel and unusual punishment against a small segment of the community in violation of the 8th Amendment. On 10-2-64, the defendants' motion was argued before the court, and was denied on that date by the court.

On 3-26-65, the defendants pleaded nolo contendere to 2 counts. On 4-16-65, the corporation was fined \$2,000 of which \$1,500 was suspended; and the individual was sentenced to 6 months' imprisonment which was suspended, and was placed on probation for 1 year.